IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 15330 of 1992

Between:

Kumar Power Products Pvt. Ltd., rep. by R.P. Gupta, Director
Plot No.91, Co-op Industrial Estate, (Expension Programme), Gandhinagar, Balanagar, Hyderabad

..... PETITIONER

AND

1 The Income -Tax Appellate Tribunal Hyderabad Bench 'A'
Shapoor house, 5-9-22, Adarshnagar, Hyderabad-500 463
2 The Income Tax Officer, F-Ward. Com Circle, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records of the Appellate Tribunal in M.P.No.23/Hyd/92 and issue an appropriate Writ, order or direction more preferably in the nature of Writ of Certiorari and quash the order of the Appellate Tribunal in M.P.No.23/Hyd/92 dt: 15-6-92 holding the same as illegal, and arbitrary and direct the Appellate Tribunal to re-hear the Appeal in I.T.A.No.1363/Hyd/88.

Counsel for the Petitioner:MR.K.RAJI REDDY

Counsel for the Respondents: MR.S.R.ASHOK

The Court made the following O R D E R:

(Per the Hon'ble Sri Justice Bilal Nazki).

Heard learned counsel for the parties.

This writ petition has been filed challenging the order of the Tribunal in Miscellaneous Application No.23/Hyd/92, dated 15-06-1992, refusing to recall the order passed on merits in an appeal.

The only ground taken in the Miscellaneous Application is that the order had been passed *ex parte* without notice to the petitioner. That is not borne by the record. In the Tribunal's main order, in the appeal, it was mentioned that the petitioner was not able to produce before it any record pertaining to the Company's Director's visit to a Foreign country to inspect the machinery, therefore, the case was adjourned to enable the petitioner to produce the record, thereafter, he did not appear before the Tribunal. The case was also adjourned on almost four occasions to enable the petitioner to put forth the arguments. Since the petitioner failed to do so after having sufficient notice, the Miscellaneous Application was rightly rejected by the Tribunal.

Hence, we dismiss the writ petition. No order as to costs.

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(BILAL NAZKI, J)

25th August, 2004.

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(S.ANANDA REDDY, J)

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To

1 The Income -Tax Appellate Tribunal Hyderabad Bench 'A'
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3 Two C.D copies